

REMARKS

With this Amendment, the Applicant amends claims 3, 10, 13 and 14 and adds claims 21-28. After entry of this Amendment, claims 1-7 and 9-28 are pending in the Application. Consideration of the Application as amended is requested.

In the Office Action dated August 24, 2003, the Examiner requires the Applicant to elect a single disclosed species of the claimed invention, stating that the application contains claims drawn to three patentably distinct species:

I: an ambient light sensor having dark and standard pixels (claims 1, 2, 4-7, 9, 11, 12 and 15-20);

II: a ambient light sensor with a timer means (claims 3 and 13);

III: an ambient light sensor with an absolute ambient light comparing means (claims 10 and 14).

The Examiner indicated that applicant is required to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. The Examiner indicated that no claim was generic.

The Applicant has amended each of claims 3 and 10 to depend from claim 1 and each of claims 13 and 14 to depend from claim 11. Claims 1-2, 4-9, 11, 12, 15-22, and 26-28 are generic to species Group II and III, and the Applicant thus elects the species of Group I with traverse. The election of species requirement is traversed on the basis that the Examiner has not shown that the species are classified in different areas requiring different searches, or that a search of the three identified species within the same classification would be unduly burdensome. This is particularly true in view of the fact that the Examiner has, up until this point in time, examined all of the claims as a single inventive concept. In fact, claims 3 and 10 previously depended from claim 1 and claims 13 and 14 previously depended from claim 11. The Applicant respectfully requests the Examiner withdrawn the election of species requirement.

New claims 21-28 have been added. Claims 21 and 27 are generic and they specify only an optical moisture sensor. Claims 1 and 11 specify characteristics of one suitable optical moisture sensor as described in the specification, that is, the optical moisture sensor has a plurality of dark and standard pixels. Similarly, new claims 22 and 28, which respectively depend from claims 21 and 27, include the feature that the optical moisture sensor has a plurality of dark pixels and a plurality of standard pixels. New claim 23 reads on species Group II, and new claims 24 and 25 read on species Group III. Claims 23-25 depend from claim 21 and include features similar to those included in claims 3, 10 and 14, respectively. Claim 26 includes features similar to those included in claims 4, 6, 7 and 9 and reads on species Group I.

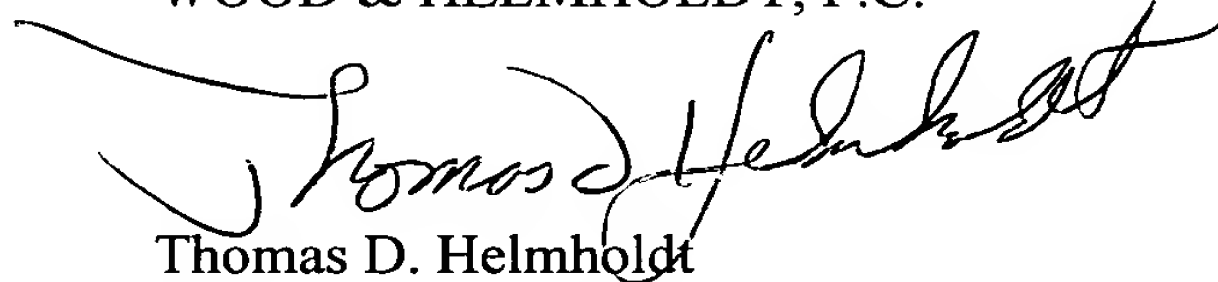
Among other reasons, claims 21 and 26 are allowable over the prior art of record because none of the cited references teach or suggest the use of an absolute ambient light value for any purpose in measuring ambient light conditions.

It is respectfully submitted that this Amendment traverses and overcomes all of the Examiner's objections and rejections to the application as originally filed. It is further submitted that this Amendment has antecedent basis in the application as originally filed, including the specification, claims and drawings, and that this Amendment does not add any new subject matter to the application. Reconsideration of the application as amended is requested. It is respectfully submitted that this Amendment places the application in suitable condition for allowance; notice of which is requested.

If the Examiner feels that prosecution of the present application can be expedited by way of an Examiner's amendment, the Examiner is invited to contact the Applicant's attorney at the telephone number listed below.

Respectfully submitted,

YOUNG, BASILE, HANLON, MacFARLANE,  
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A handwritten signature in black ink, appearing to read "Thomas D. Helmholdt", is written over the printed name.

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